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December 16, 2015

David S. Ferriero
Archivist of the United States
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20704

Via Certified Mail – Return Receipt Requested

Re: Notice of Intent to Sue National Archives and Records Administration for Clean Water Act Violations at the National Archives Facility, 8601 Adelphi Road, College Park, Maryland 20740, NPDES Permit No. MD0065871, State Discharge Permit No. 09-DP-2904

Dear Archivist Ferriero,

We write on behalf of the Anacostia Riverkeeper (ARK) and its members to provide notice of ARK's intent to sue the National Archives and Records Administration (NARA) for significant and ongoing violations of the Clean Water Act (CWA), 33 U.S.C. § 1251 et seq., at NARA's facility located at 8601 Adelphi Road, College Park, MD 20740 (hereinafter "National Archives II"), which is owned and operated by NARA. These serious and ongoing violations have caused and continue to cause discharges of significant amounts of pollutants, such as copper, to an unnamed tributary of Paint Branch, which is a tributary of the Anacostia River and within the Chesapeake Bay watershed.

As explained more fully below, NARA is routinely discharging pollutants from Outfall 001 in violation of the terms and conditions of its National Pollutant Discharge Elimination System (NPDES) Permit and the CWA. In addition, NARA is failing to comply with monitoring and reporting requirements in violation of both the NPDES Permit and the CWA. By failing to comply with its NPDES permit and the CWA, NARA has injured and will continue to injure or threaten to injure the health, environmental, aesthetic, and economic interests of ARK and its members. These injuries or risks are traceable to NARA's violations at National Archives II, and correction of these ongoing violations through remedies (including cessation, corrective action, payment of penalties, and supplemental environmental projects) will redress these injuries or risks.

Citizens are entitled to bring suit against "any person...alleged to be in violation" of an "effluent standard or limitation" established under the CWA. 33 U.S.C. § 1365(a)(1). Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants from a point source to waters of the United States except in compliance with, among other conditions, a NPDES permit issued pursuant to section 402 of the CWA. 33 U.S.C. § 1342(a). Moreover, as much as \$37,500 can be imposed per day for each violation of permit limits or conditions,

including unpermitted discharges, under the CWA. 33 U.S.C. § 1319(d).¹ In accordance with Section 505(b)(1)(A) of the CWA, 33 U.S.C. § 1365(b)(1)(A), this letter serves to notify NARA that ARK intends to file suit for violations of the CWA, unless corrected, in the U.S. District Court for the District of Maryland at any time 60 days after the postmarked date of this letter. 40 C.F.R. § 135.2(c).

I. BACKGROUND

NARA owns and operates National Archives II, a government records storage and preservation facility, located at 8601 Adelphi Road, College Park, MD 20740. National Archives II discharges non-contact cooling water into an unnamed tributary of Paint Branch, which itself is a tributary of the Anacostia River. All waters of the non-tidal Anacostia River, including Paint Branch and its tributary into which National Archives II discharges, are waters of the United States for purposes of the CWA and are further categorized by the Maryland Department of the Environment (MDE) as Use I waters and protected for water contact recreation, fishing, aquatic life, and wildlife.² The CWA Section 303(d) list identifies Paint Branch as impaired for biological indicators, which could be influenced by chlorine, tower chemicals, copper, or zinc, as shown in the Fact Sheet for the Permit.³ However, there is currently no Total Maximum Daily Load (TMDL) for Paint Branch or its tributaries for such pollutants.

National Archives II currently operates under NPDES Permit No. MD0065871 and State Discharge Permit No. 09-DP-2904 (hereinafter "Permit"), effective December 1, 2009, pursuant to Section 402 of the CWA, 33 U.S.C. § 1342(b).⁴ The Permit expired on November 30, 2014, but MDE has administratively extended its coverage.

The Permit authorizes National Archives II to discharge "non-contact cooling water" effluent through Outfall 001 and requires NARA to sample and report monthly the discharge's Flow, Temperature, Dissolved Oxygen, pH, Dissolved Zinc, Dissolved Copper, Hardness (as CaCO₃), Total Nitrogen, and Total Phosphorus.⁵ In addition, NARA must sample once per month, report, and adhere to monthly averages and daily limitations at National Archives II for Total Copper (a monthly average of 9 µg/l and a daily maximum of 13 µg/l), Total Zinc (a monthly average and daily maximum of 120 µg/l), and Total Residual Chlorine (a monthly average of 0.011 mg/l and a daily maximum of 0.019 mg/l), as well as minimum and maximum pH levels of 6.5 and 8.5, respectively.

The Permit also requires NARA to submit a biomonitoring study plan to MDE by March 10, 2010 and submit quarterly Whole Effluent Toxicity (WET) tests for one year no later than three months following MDE's acceptance of the NARA's study plan. If the test results of any two consecutive valid toxicity tests conducted within any 12-month period show acute or chronic toxicity, NARA must either eliminate the source of the toxicity or perform a Toxicity Reduction

¹ See also 40 C.F.R. § 19.4 (Civil Monetary Penalty Inflation Adjustment).

² MD Code Regs. 26.08.02.02; 26.08.02.08.

³ See Permit's 2009 Fact Sheet, attached hereto as Attachment A.

⁴ See Permit, attached hereto as Attachment B.

⁵ See Attachment B: Permit, I. Special Conditions, A. Effluent and Monitoring Requirements.

Evaluation to investigate the cause of toxicity and implement control measures to reduce toxicity.

A review of information and data from Discharge Monitoring Reports (DMRs), Field Inspection Reports, and correspondence between NARA and MDE from 2012 to present reveal ongoing violations of the Permit, including: effluent limitation exceedances; unpermitted discharges; sampling, monitoring, and reporting violations; failure to undertake required toxicity testing; and failure to adhere to other permit conditions. These Permit violations have placed the National Archives II in significant noncompliance since December 2009.

II. VIOLATIONS OF THE CLEAN WATER ACT AND MARYLAND'S WATER POLLUTION CONTROL LAW

A. Failure to Comply with the Permit's Monitoring and Reporting Requirements

NARA has committed significant and ongoing violations to its Permit by failing to monitor its discharge and by inaccurately reporting monthly effluent limitations in its DMRs.

1. Failure to Correctly Report Sampling Results on the DMRs

The Permit requires NARA to report "effluent characteristics limited as a monthly average...on a separate form for each calendar month of the [quarterly] reporting period."⁶ The Permit also requires NARA to report daily maximum effluent limitations as follows: "For each effluent characteristic monitored at a frequency of once per month or less and not limited as a monthly average, the results obtained during the reporting period shall be summarized on a single report for each quarter."⁷ Since NARA is only required to take one grab sample per month for each parameter, the average monthly value should be the same as the daily maximum value. However, NARA does not submit the results of each monthly grab sample for each parameter on the DMRs as the Permit requires. Instead, NARA reports a single value each quarter as the "average monthly" sampling result and reports a separate, single value as the "daily maximum." Due to these reporting failures, it is difficult to determine whether the value reported as the "average monthly" is an average of the three monthly samples or represents a single grab sample result. Likewise, it is difficult to determine what the reported "daily maximum" value represents.

Failure to accurately calculate and report monthly averages and daily maximums makes compliance monitoring more difficult. For 45 months between January 2012 and September 2015, NARA has failed to accurately submit DMRs for Total Copper, Total Zinc, and Total Residual Chlorine. Each day of each month during which this reporting error occurred is a separate violation and is subject to a penalty of up to \$37,500.

⁶ See Attachment B: Permit, II. General Conditions, A. Monitoring and Reporting, 2. Reporting-Monitoring Results Submitted Quarterly.

⁷ *Id.*

2. Failure to Monitor Effluent for Required Parameters

Prior to April 2012, NARA failed to monitor its discharge not only for Total Zinc, but also for Dissolved Zinc, Water Hardness, Total Nitrogen, and Total Phosphorus, even though the Permit required NARA to monitor for these parameters at National Archives II by December 2009.⁸ In addition, NARA submitted a DMR for the third quarter of 2012 with the value of 'zero' entered for each parameter and its corresponding concentration limitations. This NOI treats this DMR as a failure to monitor its effluent for the required parameters. Each day of each month during which NARA failed to monitor each parameter is a separate violation and is subject to a penalty of up to \$37,500.

3. Failure to Submit Timely DMRs

The Permit requires NARA to submit DMRs to MDE "postmarked no later than the 28th day of the month following the end of the reporting period."⁹ Table 1 below displays the quarters from January 2012 onward that NARA failed to submit timely DMRs. As per Table I, NARA has failed to submit timely DMRs by the required deadline five out of the past 15 quarters.

Table 1. Discharge Monitoring Reports Non-Receipt Violations

Monitoring Period	DMR Due Date	Parameters	DMR Value Received Date
2012-Q2 (Apr-Jun)	July 28, 2012	Temperature	Aug. 8, 2012
2012-Q4 (Oct-Dec)	Jan. 28, 2013	Dissolved Oxygen pH Total Nitrogen Total Phosphorus Total Hardness [as CaCO ₃] Dissolved Copper Total Copper Dissolved Zinc Total Zinc Flow Total Residual Chlorine	Mar. 08, 2013
2013-Q3 (Jul-Sep)	Oct. 28, 2013	Temperature	Nov. 28, 2013
2014-Q1 (Jan-Mar)	Apr. 28, 2014	Flow	May 29, 2014
2014-Q2 (Apr-Jun)	Jul. 28, 2014	Temperature	Aug. 28, 2014

Each day of nonsubmittal is a separate violation for which penalties of up to \$37,500 may be assessed.

⁸ See MDE Field Inspection Report (May 24, 2012), attached hereto as Attachment C.

⁹ See Attachment B: The Permit, II. General Conditions, A. Monitoring and Reporting, 2. Reporting-Monitoring Results Submitted Quarterly.

B. Failure to Meet Monthly Average Permitted Effluent Limits for Total Copper and Total Residual Chlorine

NARA has continuously and significantly violated the monthly effluent limits imposed on National Archives II. The Permit imposes a monthly average effluent limit of 9 µg/l of Copper, 120 µg/l of Zinc, and 0.011 mg/l of Residual Chlorine from National Archives II's discharges of non-contact cooling water via Outfall 001. As previously stated, instead of submitting monthly averages for these parameters, as required by its Permit, NARA has instead submitted a single value each quarter as the "monthly average."

Table 2 shows NARA's exceedances of its monthly average permit limits for Total Copper, Total Zinc, and Total Residual Chlorine at National Archives II between January 2012 and September 2015, as reported in its quarterly DMRs. Although this reporting failure makes it difficult to determine whether NARA has exceeded its monthly averages for these parameters for each month in the quarter, the value reported on the DMRs indicates that NARA has violated its monthly average for at least one month of that quarter. This is true regardless of whether the reported value represents a quarterly average, the lowest effluent concentration sampled in that quarter, or the highest effluent concentration sampled in that quarter.

Cells highlighted in yellow indicate that NARA has violated its monthly average for the particular effluent in that column at least one month in that quarter. Cells highlighted in red indicate that NARA has violated its monthly average for a particular effluent at least one month in that quarter and that the represented value for that quarter is at least twice as much as the limits allowed by the Permit. Table 2, below, indicates that NARA has violated its average monthly effluent limit at least 13 times for Total Copper, at least seven times for Total Zinc, and at least 13 times for Total Residual Chlorine between January 2012 and September 2015. National Archives II remains in continuing and significant noncompliance for Total Copper and Total Residual Chlorine.

Table 2. Exceedances of Monthly Average Permit Limits as Reported in Quarterly Discharge Monitoring Reports

Year – Quarterly Reporting Period	Total Copper (9 µg/l)	Total Zinc (120 µg/l)	Total Residual Chlorine (0.011 mg/l)
2012-Q1 (Jan-Mar)	>0.21	-- ¹⁰	0.0
2012-Q2 (Apr-June)	1287	1033	0.2
2012-Q3 (July-Sep) ¹¹	--	--	--
2012-Q4 (Oct-Dec)	2600	1600	0.13
2013-Q1 (Jan-Mar)	3640	1004	0.23
2013-Q2 (Apr-June)	2000	780	0.18

¹⁰ There is no value reported for Total Zinc in the first quarter of 2012 because NARA failed to monitor its discharge for the parameter until the second quarter of 2012. See Section II.A.2 of this NOI.

¹¹ For the third quarter of 2012, NARA submitted a DMR with the value of 'zero' entered for each parameter and its corresponding concentration limitations. This NOI treats this DMR as a failure to monitor effluent for required parameters. See Section II.A.2 of this NOI.

Year – Quarterly Reporting Period	Total Copper (9 µg/l)	Total Zinc (120 µg/l)	Total Residual Chlorine (0.011 mg/l)
2013-Q3 (July-Sep)	950	280	0.09
2013-Q4 (Oct-Dec)	400	100	0.8
2014-Q1 (Jan-Mar)	523	170	0.29
2014-Q2 (Apr-June)	46	50	0.2
2014-Q3 (July-Sep)	450	160	0.11
2014-Q4 (Oct-Dec)	68	50	0.1
2015-Q1 (Jan-Mar)	76.7	73.3	0.16
2015-Q2 (Apr-June)	75	60	0.07
2015-Q3 (July-Sep)	27.67	50	0.15

Each day the discharged effluent exceeds the monthly average limit for Total Copper, Total Zinc, or Total Residual Chlorine is a separate violation for which a penalty of up to \$37,500 per day can be assessed.

C. Failure to Meet Daily Permitted Effluent Limits for Total Copper and Total Residual Chlorine

The Permit imposes daily effluent limits of 13 µg/l of Copper, 120 µg/l of Zinc, and 0.019 mg/l of Residual Chlorine from National Archives II's discharges of non-contact cooling water via Outfall 001. The Permit requires NARA to summarize the results of each month's grab sample and report the value as a "daily maximum" on the quarterly DMR. As discussed previously, NARA only reports a single value as the "daily maximum" every quarter.

Table 3 below shows NARA's violations of its daily maximum effluent limits for Total Copper, Total Zinc, and Total Residual Chlorine between January 2012 and September 2015 as reported by NARA. For each of these pollutants, the table provides the value reported by NARA as the "daily maximum" during each quarter. Cells highlighted in yellow indicate that NARA's violated National Archives II's daily limit requirement for the particular parameter in the column for that quarter. Cells highlighted in red indicate that NARA violated National Archives II's daily limit requirement for a particular parameter in that quarter, and that the recorded daily maximum for that quarter is at least twice as much as the Permit limits. At a minimum, National Archives II is in violation of the daily maximum effluent limitations for one day during each quarter, as indicated in Table 3.

Table 3. Violations of Quarterly Daily Minimum and Maximum Permit Limits

Year – Quarterly Reporting Period	Total Copper Daily Max. (13 µg/l)	Total Zinc Daily Max. (120 µg/l)	Total Residual Chlorine Daily Max. (0.019 mg/l)	pH	
				Daily Min. (6.5)	Daily Max. (8.5)
2012-Q1 (Jan-Mar)	>0.21	-- ¹²	0.0	6.7	6.9
2012-Q2 (Apr-June)	2500	1800	0.46	6.4	6.7
2012-Q3 ¹³ (July-Sep)	--	--	--	--	--
2012-Q4 (Oct-Dec)	3100	1800	0.15	6.64	6.74
2013-Q1 (Jan-Mar)	3900	1700	0.28	6.27	6.91
2013-Q2 (Apr-June)	2400	1000	0.31	6.44	6.76
2013-Q3 (July-Sep)	1400	400	0.17	6.87	7.13
2013-Q4 (Oct-Dec)	640	180	0.15	7.4	7.6
2014-Q1 (Jan-Mar)	710	260	0.5	7.5	8.2
2014-Q2 (Apr-June)	80	50	0.3	7.3	7.7
2014-Q3 (July-Sep)	530	180	0.16	7.6	8.0
2014-Q4 (Oct-Dec)	70	50	0.1	7.7	7.8
2015-Q1 (Jan-Mar)	140	100	0.36	7.2	7.7
2015-Q2 (Apr-June)	143	80	0.1	6.8	7.2
2015-Q3 (July-Sep)	38	50	0.3	7.0	7.5

Table 3 indicates that out of the past 15 quarters, NARA has violated its daily Total Copper limit 13 times, its daily Total Zinc limit eight times, and its daily Total Residual Chlorine limit 13 times. Each reported daily maximum exceedance is a separate violation for which a penalty of up to \$37,500 can be assessed.

D. Failure to Provide Notification of Daily Maximum Effluent Limitation Violations for Total Copper, Total Zinc, and Total Residual Chlorine

The Permit requires NARA to notify MDE by telephone if National Archives II fails to comply “with any daily maximum or daily minimum effluent limitation...within 24 hours of becoming aware of the noncompliance” as well as provide notice to MDE in writing within five calendar days.¹⁴ After reviewing documents received in a Maryland Public Information Act (PIA) request to MDE regarding National Archives II, it does not appear that NARA has notified MDE either by telephone or in writing after failing to comply with the daily effluent limitations

¹² There is no value reported for Total Zinc in the first quarter of 2012 because NARA failed to monitor its discharge for the parameter until the second quarter of 2012. See Section II.A.2 of this NOI.

¹³ For the third quarter of 2012, NARA submitted a DMR with the value of ‘zero’ entered for each parameter and its corresponding concentration limitations. This NOI treats this DMR as a failure to monitor effluent for required parameters. See II.A.2 of this NOI.

¹⁴ See Attachment B: Permit, II. General Conditions, B. Management Practices, 2. Noncompliance with Effluent Limitations.

previously mentioned in this NOI. The duty to notify arose upon NARA's receipt of the test results of each grab sample that exceeded Permit limits, as outlined in Table 3, above. Each failure to notify MDE constitutes a separate violation of the Permit and subjects NARA to a penalty of up to \$37,500 per day.

E. Unauthorized Discharge of Contaminated Stormwater

Section 303(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of a pollutant by any person into the waters of the United States unless such discharge is authorized by and in compliance with a permit. The Permit does not mention allowing National Archives II to discharge any stormwater contaminated with process wastewater and only authorizes the discharge of non-contact cooling water. However, according to photos accompanying NARA's permit renewal application received by MDE on February 20, 2015, Outfall 001 discharges to an existing stormwater stream.¹⁵ Thus, discharge of contaminated stormwater from National Archives II constitutes an unpermitted discharge of pollutants in violation of the Permit and the CWA. Each day beginning January 1, 2011 that such unpermitted discharge occurred or occurs is a separate violation for which penalties of \$37,500 can be assessed.

F. Failure to Adhere to Biomonitoring Reporting Requirements

1. Failure to Submit Quarterly Biomonitoring Test Results

NARA is in violation of the Permit's biomonitoring reporting requirements. Within three months of the effective date of the Permit, NARA was required to submit to MDE for approval a study plan "to evaluate wastewater toxicity at Outfall 001 by using biomonitoring."¹⁶ Although NARA was required to submit the study plan by March 2010, it did not submit the plan until April 2013.¹⁷ After MDE's approval of the study plan, the Permit requires NARA to submit quarterly WET tests consecutively for one year.¹⁸ However, NARA still has not provided the WET test results from either the third or fourth quarters of 2013, despite repeated requests from MDE.¹⁹ MDE has received WET test results from the second quarter of 2013 as well as the first, second, and third quarters of 2014. Thus, NARA has failed to submit quarterly WET tests for a full one-year period. NARA has been in violation of this Permit requirement from at least January 2011 through the present and each day of noncompliance is a separate violation subject to a penalty of up to \$37,500.

¹⁵ See Permit Renewal Application (Feb. 20, 2015), attached hereto as Attachment D.

¹⁶ See Attachment B: Permit, I. Special Conditions, K. Monitoring Program.

¹⁷ See MDE, Field Inspection Report (Aug. 8, 2012), in which Site Inspector John Odalapo notes that MDE "has not yet received this plan with over two years into the permit," attached hereto as Attachment E; *see also* Letter from MDE to Lawrence Holley, NARA (June 18, 2014), attached hereto as Attachment F.

¹⁸ See Attachment B: Permit, I. Special Conditions, K. Monitoring Program, which states, "[t]he [biomonitoring] testing program shall consist of definitive quarterly chronic testing for one year."

¹⁹ See Email from MDE to Lawrence Holley, NARA (March 6, 2014) (stating that MDE is "still missing the reports from the last two quarters of 2013 and the first quarter of 2014"), attached hereto as Attachment G; Email from MDE to Lawrence Holley, NARA (April 11, 2014) (acknowledging receipt of test results from the first quarter of 2014 but repeating request for "the bio-monitoring reports for the 3rd and 4th quarters of 2013"), attached hereto as Attachment H; Attachment F: Letter from MDE to Lawrence Holley, NARA (June 18, 2014) (stating that "the WET testing results for the third and fourth quarters of 2013...have not been received").

2. Failure to Perform Additional Biomonitoring Testing After Two Consecutive Tests Showed Chronic Toxicity

The Permit also requires NARA to repeat WET tests within 30 days “if the test results of any two consecutively valid toxicity tests...show acute or chronic toxicity...”²⁰ If the repeated test confirms acute and/or chronic toxicity, NARA must either eliminate the source of toxicity or perform a Toxicity Reduction Evaluation.²¹ In a September 15, 2014 letter to Facility Manager Lawrence Holley, MDE informed NARA that “the results of the testing conducted in the second quarter of 2014 indicate that the effluent from Outfall 001 was chronically toxic to the *Pimephales promelas* (fathead minnow)...[and] the results of the third quarter testing indicate that the effluent from Outfall 001 was chronically toxic to both the fathead minnow and the *Ceriodaphnia dubia* (cladoceran).”²² Because of this chronic toxicity, the Permit required NARA to repeat the test and submit the test results within 30 days upon receiving the letter. None of the records provided by MDE during a Public Information Act (PIA) request indicate that NARA has complied with this requirement. Each day that NARA continues to fail to perform the additional WET testing is a separate violation subject to a penalty of up to \$37,500.

G. Failure to Take All Reasonable Steps to Minimize Adverse Impact to Waters of the State

The Permit requires NARA to take all reasonable steps to minimize or prevent adverse impact to the waters of the State of Maryland.²³ Yet NARA has chronically failed to follow WET testing and reporting requirements; its effluent contains pollutants up to 300 times the allowable limit; and it has been in continuous violation of its Total Copper and Total Residual Chlorine limits since the second quarter of 2012.²⁴ For these reasons, NARA has failed to take all reasonable steps to minimize adverse impacts to surface waters. In addition, National Archives II’s discharge may be causing or contributing to exceedances of State water quality standards in violation of NARA’s Permit.²⁵ Each day NARA fails to take all reasonable steps to minimize or prevent adverse impacts to the waters of Maryland or contributes to any exceedance of State water quality standards is a separate violation subject to a penalty of up to \$37,500.

III. PARTIES GIVING NOTICE

The Anacostia Riverkeeper is a nonprofit organization that works to protect and restore the Anacostia River for communities that live in, work in, and recreationally use its watershed, and advocates for a clean, healthy river for all its communities. ARK has more than 100 members, many of whom use and enjoy the Anacostia watershed for recreation, wildlife watching, aesthetic enjoyment, and other purposes. ARK’s offices are located at 515 M St SE, Suite 218,

²⁰ See Attachment B: Permit, I. Special Conditions, K. Monitoring Program.

²¹ See *id.*

²² See Letter from MDE to Lawrence Holley, NARA (Sep. 15, 2014), attached hereto as Attachment I.

²³ See Attachment B: Permit, II. General Conditions, B. Management Requirements, 4. Adverse Impact.

²⁴ This excludes the third quarter of 2012. For the third quarter of 2012, NARA submitted a DMR with the value of ‘zero’ for each parameter and its corresponding concentration limitations. This NOI treats this DMR as a failure to monitor effluent for required parameters. See Section II.A.2 of this NOI.

²⁵ See Attachment B: Permit, I. Special Conditions, N. Protection of Water Quality.

Washington, DC 20003 and the main phone number is (202) 863-0158. ARK is represented by the Environmental Integrity Project (EIP), a nonprofit law firm located at 1000 Vermont Avenue NW, Suite 1100, Washington DC 20005 and whose main phone number is (202) 296-8800.

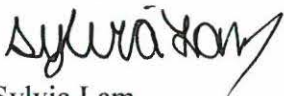
The activities at National Archives II have negatively affected the Anacostia River and its watershed by polluting its waters. The CWA Section 303(d) list identifies Paint Branch as impaired for biological indicators. According to the Permit's Fact Sheet, this impairment could be influenced by chlorine, tower chemicals, copper, or zinc.²⁶ Both copper and zinc are heavy metals and can be toxic to aquatic life if found in higher concentrations.²⁷ Because heavy metals are non-biodegradable, both localized and dispersed heavy metal pollution can negatively affect both the aquatic life and human health. If left unchecked, National Archives II's discharges will continue to injure the Anacostia River watershed.

IV. CONCLUSION

NARA has violated and is currently violating the federal CWA and Maryland's Water Pollution Control Law at National Archives II's in College Park, MD. Due to the high number and repetitive nature of the violations, ARK believes that National Archives II will continue to release unpermitted discharges. Accordingly, ARK intends to file suit to enjoin and abate the aforementioned violations, ensure future compliance with federal and state law, obtain civil penalties, recover attorneys' fees and costs of litigation, and obtain other appropriate relief.

If you have any questions regarding the allegations in this notice or believe any of the foregoing information may be in error, please contact Sylvia Lam at the phone number or email address listed below. We would also welcome an opportunity to discuss a resolution of this matter prior to the initiation of litigation if you are prepared to remedy the violations discussed above.

Sincerely,



Sylvia Lam
Law Fellow
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(202) 888-2701
slam@environmentalintegrity.org

Counsel for Anacostia Riverkeeper

²⁶ See Attachment A: Permit's 2009 Fact Sheet.

²⁷ U.S. Environmental Protection Agency, Fact Sheet: Aquatic Life Ambient Freshwater Quality Criteria (2007).

cc:

The Hon. Gina McCarthy
Administrator
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Via Certified Mail, Return Receipt Requested

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